

REMARKS

Claims 1-6 and 8-15 are pending in the present application. The Office Action and cited references have been considered. Favorable consideration is respectfully requested.

Claims 1-6 and 8-15 were rejected under 35 U.S.C. §103 as being unpatentable over Piasecki et al (U.S. Patent No. 5,117,453) in view of Jarvinen et al (U.S. Patent No. 6,170,073) and further in view of Ovadia (U.S. Patent No. 5,440,564). This rejection is respectfully traversed for the following reasons.

The claimed invention as recited in claim 1 recites a digital telecommunication station operative in a telecommunication network, the network comprising at least two different transmission paths between the telecommunication station and at least one other element in the network, each path comprising a different link between the telecommunication station and the at least one other element in the network. The telecommunication station comprises at least one detector operative to receive at least two different types of signals, each associated with a different class of quality of service and to distinguish, for each received signal in its entirety, the type of signal to which it belongs, at least one switch controlled by one of the at least one detector, operative to channel signals received in accordance with the distinction made by the at least one detector, a first transmission means operative to transmit received signals along a first one of the at least two different transmission paths. Responsive to the channeling by the at least one switch, signals of at least one other type selected from among the at least two different types of signals and associated with a lower class of

quality of service are diverted from the first transmission path. The telecommunication station further comprises a second transmission means operative to transmit the diverted signals along a second one of the at least two different transmission paths. Claim 13 has been amended in a similar manner. These features are not taught, disclosed or made obvious by the prior art of record.

The remarks submitted in the previous amendment are incorporated herein by reference. Additionally, Applicant respectfully submits that the amended claims are patentable over the prior art of record because the prior art does not teach or suggest the apparatus and method recited in claims 1 and 13.

Applicant has amended claim 1 to simply try to clarify what is being claimed, by changing the phrase “and to divert signals of at least one other type selected from among said at least two different types of signals and associated with a service that requires a lower class of quality” to “and to divert signals of at least one other type selected from among said at least two different types of signals and associated with a lower class of quality of service.” The diversion to which the present claimed invention relates is made not on the basis of the type of signal such as facsimile, speech, tone and non-facsimile voiceband data signals (as in Piasecki: see col. 5, lines 26-31), signal quality (as in Jarvinen: see col. 8, lines 1-10), or on line quality (as in Ovadia: see col. 3, lines 41-45). Instead, and importantly, Applicant claimed invention diverts signals to a second transmission path ***based on the class of quality of service associated with specific type(s) of signals***. In particular, the detector is “operative to receive at least two different types of signals, each associated with a different class of quality of

service and to distinguish, for each received signal in its entirety, the type of signal to which it belongs” and “responsive to the channeling by said at least one switch, signals of at least one other type selected from among said at least two different types of signals and associated with a lower class of quality of service are diverted from the first transmission path” and transmitted along a second transmission path.

It appears that the Office is interpreting Applicants' claim as requiring that whenever there is a problem with the signal quality, the signal, regardless of its type, should be diverted to the second transmission path. However, this interpretation is incorrect. Instead, according to the present claimed invention, if the network operator defines, e.g., that facsimile signals are associated with a low class of quality of service, all facsimile signals that will be forwarded via the claimed digital communication station of the present invention will always be diverted to the second path, regardless of the current conditions of or at the first path.

In Piasecki, only one transmission path is taught linking the transmission station to the other elements in the network. In contrast, Applicant's claimed invention comprises two transmission paths, each path comprising a different link between the telecommunication station and the at least one other element in the network, and the types of signals are detected, and channeled, via the switch, through the different transmission paths dependent on the types of signal that is passing through the station.

In Jarvinen, the system looks at each bit and classifies the bits into classes dependent on the effect that the particular bit has on the quality of the signal. In contrast, Applicant's claimed invention looks at the entirety of the signal to determine

the type of signal passing through the station and channels the signals to different transmission paths dependent on the signal type (i.e., “the detector is “operative to . . . distinguish, for each received signal in its entirety, the type of signal to which it belongs”).

Thus, even if, for the sake of argument only, one of ordinary skill in the art would have been motivated to modify Piasecki with Jarvinen, the present claimed invention would not have been the result.

The Office has now cited Ovadia, and alleged that it teaches “a telecommunication device having a plurality of transmission paths . . . and to divert . . . signals to an appropriate transmission path . . . to provide an improved data multiplexer capable from among of a plurality of band communication rates dependent upon the quality of the communication channel” The Office then concludes that “Therefore, it would have been obvious to combine Piasecki and Jarvinen with Ovadia to obtain the invention as specified in claim 1.” Applicants respectfully disagree.

Ovadia states that the multiplexer is “capable of diverting part of the data being transmitted over a primary communication channel to a second communication channel either in response to increased user data demand or upon the main communication channel degrading below the required data throughput rate.” Col. 1, lines 61-66. Thus, the disclosure of Ovadia refers to providing a temporary solution to congestion problems or to line deterioration. See, e.g., col. 3, lines 16-17, 26-30 and 41-45, and 55-61. This is not the same or related to the present claimed invention of

operating the communication station on a permanent basis, based on the type of the signals and the quality of service associated with that type of signal.

Furthermore, the Ovadia patent teaches away from the claimed invention. According to Ovadia, all signals entering multiplexer 10 are supposedly of the same type of signals but only have different rates ("multiplexer 10 received data from DTE1-DTE8 which may be operating at various data rates", col. 3, lines 50-51). However, even if one were to assume, for the sake of argument only, that the signals are of different types, it would only support a finding of non-obviousness, because according to Fig. 1, all signals reach multiplexer 10, and the multiplexer 10 responds to the indicated impairment by reinitializing itself and its complementary multiplexer in system 20 so that the data rate over the leased line 18 is reduced to the level of the degraded line capacity and an additional data stream over the PSTN is established to carry the remaining data (see col. 3, lines 62-66). Thus, the diversion is of the multiplexed signal. In order for such a configuration to be at all relevant to the present application, there should be a demultiplexer at the egress of multiplexer 10, together with the signal classification means to allow diversion of data signals from one path to the other based on the quality of service associated with the type of signals. As it does not make any sense to have a demultiplexer right after a multiplexer, no one skilled in the art would have considered modifying the solution described by Ovadia in a way that could read on the present claimed invention.

For at least these reasons, Applicant respectfully submits that claims 1 and 13 are patentable over the prior art of record, whether taken alone or in combination as proposed in the Office Action.

Claims 2-6, 8-12 and 14-15 depend from and include the recitations of claims 1 and 13, respectively. Applicant respectfully submits that these claims are patentable in and of themselves and as they depend from and include the recitations of claims 1 and 13, respectively, for the reasons discussed above.

In view of the above amendments and remarks, Applicant respectfully request reconsideration and withdrawal of the outstanding rejections of record. Applicant respectfully submits that the application is in condition for allowance and early notice to this effect is most earnestly solicited.

If the examiner has any questions, he is invited to contact the undersigned at 202-628-5197.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant

By /Ronni S. Jillions/
Ronni S. Jillions
Registration No. 31,979

RSJ:me
Telephone No.: (202) 628-5197
Facsimile No.: (202) 737-3528
G:\BN\E\esi\Guatar\PTO\2008-01-07AmendmentGUATA1.doc